

Message Text

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ACTION EA-10

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-07 FRB-03

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E.O. 11652: N/A

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SUBJECT: SENATE SEEKS TO QUESTION PUBLIC SERVANTS REGARDING
OVERSEAS LOANS

REF: CANBERRA 4527

1. SUMMARY: AUSTRALIAN SENATE, IN SESSIONS JULY 15 AND 16, HAS SOUGHT TO QUESTION 12 PUBLIC SERVANTS ON OVERSEAS LOAN TRANSACTIONS. PUBLIC SERVANTS, ON GOVERNMENT INSTRUCTIONS, HAVE CLAIMED EXECUTIVE PRIVILEGE AND HAVE DECLINED TO ANSWER. OPPOSITION, WHICH EFFECTIVELY CONTROLS SENATE, MAY SUMMON PRIVATE CITIZENS WHO HAD CONTACTS WITH GOVERNMENT ON LOAN TRANSACTIONS TO TESTIFY. SUCH PERSONS COULD NOT CLAIM EXECUTIVE PRIVILEGE AND REFUSE TO ANSWER, SENATE SESSIONS ARE KEEPING ISSUE ALIVE. HOW FRUITFUL PRESENT LINE OF INQUIRY WILL BE WILL DEPEND ON HOW MUCH ADDITIONAL INFO REMAINS TO BE BROUGHT OUT. END SUMMARY.

2. AS INDICATED IN REFTEL, SENATE MET JULY 15 AND HEARD
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READING OF LETTERS FROM PRIME MINISTER WHITLAM, TREASUR-

ER WILLIAM HAYDEN, MINISTER FOR MINERALS AND ENERGY CON-
NOR, AND ATTORNEY-GENERAL ENDERBY, INSTRUCTING PUBLIC
SERVANTS FROM THEIR DEPARTMENTS, WHO HAD BEEN SUMMONED
BEFORE SENATE, TO CLAIM EXECUTIVE PRIVILEGE AND TO DE-
CLINE TO ANSWER QUESTIONS RELATING TO OVERSEAS LOANS.

3. JULY 16 SENATE MET TO HEAR PUBLIC SERVANTS, WHO
CLAIMED EXECUTIVE PRIVILEGE, AS INSTRUCTED. CONFUSED
PROCEDURAL WRANGLE FOLLOWED, WITH OPPOSITION SENATORS
ASKING SEVERAL WITNESSES, INCLUDING SIR LENNOX HEWITT
(SECRETARY OF DEPT OF MINERALS AND ENERGY), SIMPLE
QUESTIONS OF GENERAL NATURE (I.E., WHAT IS THE LOAN
COUNCIL) IN ATTEMPT TO BRING WITNESS TO BEGIN ANSWER-
ING QUESTIONS. GOVERNMENT SENATORS WERE ABLE TO BRING
THIS LINE OF QUESTIONING TO HALT, WITH HELP OF RULINGS
BY PRESIDENT OF SENATE, SENATOR JUSTIN O'BYRNE (LABOR
TASMANIA).

4. COMMENT: DETAILS OF SENATE PROCEDURE ARE COMPLES
AND SOMEWHAT DIFFICULT TO FOLLOW, BUT OPPOSITION IS
CLEARLY TRYING TO ENTICE PUBLIC SERVANTS TO BEGIN TESTI-
MONY IN HOPE OF LEADING EVENTUALLY TO DETAILS OF OVER-
SEAS LOAN TRANSACTIONS, CONCERNING WHICH PUBLIC SERVANTS
HAVE BEEN INSTRUCTED TO CLAIM PRIVILEGE. OPPOSITION
LEADER WITHERS STATED JULY 15 IN PRESS CONFERENCE THAT
THERE WAS NO RPT NO QUESTION OF CITING FOR CONTEMPT PUB-
LIC SERVANTS WHO CLAIM PRIVILEGE AND DECLINE TO ANSWER
QUESTIONS.

5. OPPOSITION APPEARS TO BE ATTEMPTING TO HIGHLIGHT RE-
FUSAL OF GOVERNMENT TO PROVIDE FURTHER INFORMATION ON
OVERSEAS LOAN TRANSACTIONS BY ITS INSTRUCTIONS TO PUBLIC
SERVANTS. OPPOSITION CAN CALL NUMBER OF PRIVATE CITIZENS,
RESIDENT IN AUSTRALIA, WHO COULD PROVIDE AT LEAST ALLE-
GATIONS OF THE TERMS AND TENOR OF THEIR CONTACTS REGARD-
ING LOANS WITH THE LABOR GOVERNMENT. SUCH PERSONS COULD
NOT RPT NOT CLAIM EXECUTIVE PRIVILEGE AND REFUSE TO AN-
SWER. UNLESS GOVERNMENT SUBSEQUENTLY ANSWERS ALLEGATIONS
MADE BY SUCH PRIVATE PERSONS, THESE STATEMENTS WILL THEN
STAND, UNREBUTTED, ON THE RECORD. THEIR IMPACT WILL
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DEPEND ON EXTENT OF THEIR SERIOUSNESS. MEANWHILE, MED-
IA CAN REPORT SUCH ALLEGATIONS FREELY, SINCE THEY HAVE
BEEN MADE IN SENATE AND ARE THUS NOT SUBJECT TO SUIT FOR
DEFAMATION OR MISREPRESENTATION.

6. PRIME MINISTER WHITLAM'S CLAIM TO EXECUTIVE PRIVI-
LEGE IS MUCH MORE EXTENSIVE THAN EXECUTIVE PRIVILEGE
EVER CLAIMED BY U.S. EXECUTIVE BRANCH. WHITLAM HAS RE-

PRESENTED SUCH EXECUTIVE PRIVILEGE AS BEING ESSENTIAL
PART OF PROCESSES OF PARLIAMENTARY GOVERNMENT. HE HAS
NOTE THAT HIS ARCH POLITICAL ENEMY, FORMER PRIME MIN-
ISTER SIR ROBERT MENZIES, TOOK SIMILAR LIE IN 1951 WHEN
THE THEN LABOR OPPOSITION SOUGHT WITHOUT SUCCESS TO QUES-
TION PUBLIC SERVANTS IN SENATE.
GREEN

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